

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 848 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

STATE OF GUJARAT

Versus

GUJARAT AMBUJA CEMENT CO LTD AMBUJA NAGAR,

Appearance:

1. Civil Revision Application No. 848 of 2001
MRS. PAURAMI SHETH AGP for Petitioner No. 1
MR AMAR D MITHANI for Respondent No. 1
-

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 29/04/2003

ORAL JUDGEMENT

1. Rule. Heard the learned counsel the parties.

This Revision Application is preferred against the order dated 11-1-2000 passed by the lower appellate court whereby the application for condonation of delay filed u/s 5 of the Limitation Act has been dismissed on the ground that there was delay of one year and eight five days and there was no sufficient for eight months' delay after obtaining the opinion from the Legal Department.

2. Learned A.G.P. for the petitioner submitted that the delay has been caused due to administrative reasons and hence the delay is required to be condoned and the lower appellate court has erroneously rejected the application for condonation of delay. Therefore, the present revision application has been preferred before this Court.

3. Learned A.G.P. for the petitioner in support of her arguments placed reliance on the decision of the Supreme Court in the case of State of Haryana Vs. Chandra Mani and others reported in 1996 (3) Supreme Court Cases 132, wherein it has been held as under :

"When the State is an applicant, praying for condonation delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing on-the-buck ethos, delay on the part of the State is less difficult to understand though more difficult to approve, but the State represents collective cause of the community. Decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay - intentional or otherwise - is routine. Considerable delay of procedural red-tape in the process of their making decisions a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in justice oriented approach rather than technical detention of sufficient cause for explaining every day's delay. The Court should decide the matters on merits unless the case is hopelessly without merit."

4. I have carefully considered the submissions made by the learned counsel A.G.P. and perused the relevant material on record including the application showing the cause of delay moved by the petitioner u/s 5 of the Limitation Act wherein the cause of delay has been satisfactorily explained. Hence, the application for condonation of delay is required to be allowed and the impugned order of the lower appellate court deserves to be quashed and set aside.

5. Accordingly, this revision application is allowed and the impugned order dated 11-1-2000 passed by the Joint District Judge, Sabarkantha at Himatnagar in Civil Misc. Application No. 67 of 1999 is quashed and set aside and the Application for Condonation of delay is allowed. The lower Appellate Court concerned is directed to decide Civil Misc. Appeal filed by the petitioner in accordance with law. Rule is made absolute, with no order as to costs.

(Kundan Singh, J.)

/JVSatwara/